IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.30325-M of 2007
Date of Decision:- 25.09.2007

Birbal Singh Yadav ....Petitioner(s)

through
Mr.G.S.Sandhu, Advocate

vs.

Jagtar Singh ....Respondent(s)

through
Mr.Jagjit Singh Lalli, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

This revision petition is directed against the order dated 6.3.2007 passed by the learned Judicial Magistrate, Ludhiana whereby the cross-examination of two witnesses i.e. CW-1 and CW-2 was ordered to be treated as nil.

The respondent has filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner. The complaint was filed in the year 2003.

On 6.3.2007, the respondent-complainant produced two witnesses and as is apparent from the impugned order, sufficient opportunities were given to the petitioner to cross-examine those witnesses. The petitioner, however, failed to cross examine them and, therefore, the learned Judicial Magistrate directed that the cross-examination of those two witnesses be treated as nil.

Aggrieved, the petitioner has approached this Court.

Having heard learned counsel for the parties, it appears that the petitioner against whom the above-stated complaint is pending, is adopting delaying tactics. In these circumstances, no exception can be taken to the impugned order. However, in the interest of justice and as a last opportunity, this revision petition is allowed; the impugned order dated 6.3.2007 is set aside to the extent that the two witnesses, namely, CW-1 & CW-2 shall remain present for their cross-examination on the date fixed i.e. 12.10.2007 and one and the last opportunity shall be granted to the petitioner to cross-examine them. The petitioner, however, shall be granted the aforesaid liberty subject to payment of costs of Rs.5,000/- to the respondent-complainant which shall be paid on that very day.

That apart, keeping in view the fact that the subject complaint appears to be an old case, the learned Judicial Magistrate shall make an endeavour to conclude the trial proceedings as early as possible and preferably within six months.

September 25, 2007 **(SURYA KANT)**
poonam **JUDGE**